

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 358, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1 begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 35-38-2-3 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The court may
- 5 revoke a person's probation if:
- 6 (1) the person has violated a condition of probation during the
- 7 probationary period; and
- 8 (2) the petition to revoke probation is filed during the
- 9 probationary period or before the earlier of the following:
- 10 (A) One (1) year after the termination of probation.
- 11 (B) Forty-five (45) days after the state receives notice of the
- 12 violation.
- 13 (b) When a petition is filed charging a violation of a condition of
- 14 probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) The court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing.

(e) The state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

(f) Probation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.

(g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may:

(1) continue the person on probation, with or without modifying or enlarging the conditions;

(2) extend the person's probationary period for not more than one (1) year beyond the original probationary period; or

(3) order execution of the sentence that was suspended at the time of initial sentencing.

(h) If the court finds that the person has violated a condition of home detention at any time before termination of the period and the petition to revoke probation is filed within the probationary period, the court shall:

(1) order a sanction as set forth in subsection (g); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

~~(h)~~ (i) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

(1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does

not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or

(2) order execution of the sentence that was suspended at the time of the initial sentencing.

(j) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

(1) order a sanction as set forth in subsection (i); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

~~(j)~~ **(k)** A judgment revoking probation is a final appealable order.

~~(j)~~ **(l)** Failure to pay fines or costs required as a condition of probation may not be the sole basis for commitment to the department of correction.

~~(k)~~ **(m)** Failure to pay fees or costs assessed against a person under IC 33-9-11.5-6, IC 33-19-2-3(c), or IC 35-33-7-6 is not grounds for revocation of probation.

SECTION 2. IC 35-38-2.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) As a condition of probation a court may order an offender confined to the offender's home for a period of home detention lasting at least sixty (60) days.

(b) The period of home detention may be consecutive or nonconsecutive, as the court orders. However, the aggregate time actually spent in home detention must not exceed:

(1) the minimum term of imprisonment prescribed for a felony under IC 35-50-2; or

(2) the maximum term of imprisonment prescribed for a misdemeanor under IC 35-50-3;

for the crime committed by the offender.

(c) The court may order supervision of an offender's home detention to be provided by the probation department for the court or by a community corrections program that provides supervision of home detention.

(d) A person's term of confinement on home detention under this chapter is computed on the basis of the actual days the person spends on home detention.

(e) A person confined on home detention as a condition of

1 **probation earns credit for time served."**

2 Page 2, between lines 35 and 36, begin a new paragraph and insert:

3 "SECTION 2. IC 35-50-6-6 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) A person
5 imprisoned for a crime earns credit time irrespective of the degree of
6 security to which he is assigned. ~~However,~~ **Except as set forth under**
7 **IC 35-38-2.5.-5,** a person does not earn credit time while on parole or
8 probation.

9 (b) A person imprisoned upon revocation of parole is initially
10 assigned to the same credit time class to which he was assigned at the
11 time he was released on parole.

12 (c) A person who, upon revocation of parole, is imprisoned on an
13 intermittent basis does not earn credit time for the days he spends on
14 parole outside the institution."

15 Renumber all SECTIONS consecutively.

(Reference is to SB 358 as printed March 2, 2001.)

and when so amended that said bill do pass.

Representative Dvorak